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In the Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-1753

IN RE ESTATE OF CASSIDY
[313 A.2d 435 (Me. 1973)]

ON PETITION FOR A WRIT OF CERTIORARI TO THE MAINE SUPREME JUDICIAL COURT

BRIEF OF RESPONDENT IN OPPOSITION

ARTHUR B. LAFRANCE
246 Deering Avenue
Portland, Maine 04102
Counsel for Respondent

Of Counsel:
ROGER A. PUTNAM
VERRILL DANA PHILBRICK
PUTNAM & WILLIAMSON
Two Canal Plaza
Portland, Maine 04112
J. WOODROW VALLELY
2 School Street
Sanford, Maine 04073

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Preliminary Statement

The Petitioner in this case seeks review of the recent decision by the Maine Supreme Judicial Court sitting as the Maine Law Court, *In Re Estate of Cassidy*, 313 A.2d 435 (Me. 1973). The Maine Court notes that Petitioner's object, in 1973, was to seek "an adjudication of the same cause of action previously litigated" in *Murray* [*Murray* v. *Sullivan*, 158 Me. 98, 179 A.2d 307 (1962)]. 313 A.2d at 437. In short, the merits of the controversy were adjudicated some eleven years ago in *Murray* v. *Sullivan*, *supra*.

Both then and now the sole issue involved the construction of a Will and the jurisdiction of the State Superior Court over such matters. And the Court, in *Cassidy*, holds that its prior decision is conclusively and correctly dispositive:

> The doctrine of res judicata is determinative of the question before the Court as it relates both to the question of jurisdiction of the Superior Court and to the construction of a Will. 313 A.2d at 432.

Argument

Notwithstanding Respondent's inability to fully comprehend the Petition to this Court, Respondent submits that a prompt and correct disposition of this case may be made on the following grounds:

A. Petitioner Has Failed To Apply Within the Prescribed Time Limitations.

(1) This case was argued on October 3, 1973, and an opinion rendered and judgment entered on December 26, 1973, by the Supreme Judicial Court of Maine — 313 A.2d 435 (Me. 1973).

(2) The Petition was filed on May 22, 1974, more than ninety (90) days since the entry of judgment by the Maine Supreme Judicial Court, and the period for applying for a writ of certiorari has not been extended by a Justice of this Court.

(3) Therefore, because Petitioner has not complied with U.S.C., Title 28, Sec. 2101(c) (Rule 22 of this Court), the application for a writ of certiorari is untimely and should be denied.

B. Petitioner Has Not Presented With Any Degree of Clarity the Legal Points For Consideration by This Court.

Rule 23(4) of this Court provides that:

> The failure of a petitioner to present with accuracy, brevity and clearness whatever is essential to a ready and adequate understanding of the points requiring consideration will be a sufficient reason for denying his petition.

Petitioner has submitted a 74-page document which defies comprehension. Seemingly, the only point made in the Petition is that Petitioner is dissatisfied, once more, with the decision of Maine's highest Court. No amount of study by Respondent, or this Court, however, will reveal the precise grounds for Petitioner's request for legal review. Because the Petition is the antithesis of "accuracy, brevity and clearness", the Court should deny the petition for a writ of certiorari.

C. Petitioner Raises No Question of Federal Law.

As the Maine Court has noted in its most recent disposition of this case, Petitioner's efforts represent an attempt to relitigate issues previously decided in *Murray* v. *Sullivan, supra*, 313 A.2d at 437. In *Murray*, the question presented was solely one of State Law, involving the construction of the Will of Petitioner's late grandfather, John Cassidy. Both in the context of the *Murray* proceedings and with regard to the Maine Court's recent affirmance, Petitioner has not raised any constitutional or federal questions. And, more importantly, no such questions are even remotely involved. Neither the facts nor the law have

changed over the past eleven (11) years, and the decision of the Maine Supreme Judicial Court is concise and unambiguous. Because the decision is utterly devoid of any federal or constitutional question, this Court should once again deny the Petition for review.

D. This Court Should Award Double Costs to Respondent.

On at least six prior occasions, this same Petitioner has applied to this Court for review of the same cause and each time the Petitions have been denied. The history of Petitioner's tireless and fruitless efforts is chronicled in the Maine Law Court's decision in this case, 313 A.2d at 436:

June 19, 1962	Petition for review; Supreme Judicial Court of Maine; denied
January 7, 1963	Petition for certiorari; 371 U.S. 949, 83 S. Ct. 501, 9 L.Ed. 2d 497 (1963); denied.
April 29, 1963	Motion for leave to file petition for rehearing; 373 U.S. 905, 83 S. Ct. 1288, 10 L.Ed. 2d 201 (1963); denied.
October 21, 1963	Motion for leave to file petition for rehearing; 375 U.S. 892, 84 S. Ct. 143, 11 L.Ed. 2d 122 (1963); denied.
February 17, 1964	Motion for leave to file petition for rehearing; 376 U.S. 928, 84 S. Ct. 655, 11 L.Ed. 2d 627 (1964); denied.
March 8, 1965	Petition for certiorari; 380 U.S. 932, 85 S. Ct. 938, 13 L.Ed. 2d 821 (1965); denied.
April 26, 1965	Petition for rehearing; 380 U.S. 989, 85 S. Ct. 1329, 14 L.Ed. 2d 282 (1965); denied.

In addition, the Maine Court expressly warned Petitioner:

> We admonish the plaintiff, however, of the inherent authority of this Court to impose pecuniary sanctions upon a litigant who contumaciously ignores orders having judicial finality, and who, as here, persistently and vexatiously pursues a litigious course of conduct to the harassment of the defendants and needless usurpation of judicial process. 313 A.2d at 439.

In light of this admonition from Maine's highest Court as well as the clear implications of this Court's repeated responses, Respondent respectfully submits that, under Rule 57(7) of this Court, this case is an "appropriate instance" for the adjudgment of double costs.

Conclusion

For the foregoing reasons it is respectfully submitted that this Petition for a writ of certiorari should be denied.

Dated at Portland, Maine, this nineteenth day of June, 1974.

Respectfully submitted,

ARTHUR B. LAFRANCE
246 Deering Avenue
Portland, Maine 04102
Counsel for Respondent

Of Counsel:
ROGER A. PUTNAM
VERRILL DANA PHILBRICK
PUTNAM & WILLIAMSON
Two Canal Plaza
Portland, Maine 04112
J. WOODROW VALLELY
2 School Street
Sanford, Maine 04073